

Application No.: 10/524,655  
Reply Appeal Brief dated February 11, 2009

Docket No.: 20811/0204738-US0

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Patent Application of:  
Rainer HILLEBRAND

Conf. No.: 8449

Application No.: 10/524,655

Art Unit: 2163

Filed: February 17, 2005

Examiner: Kim T. Nguyen

For: METHOD FOR TESTING BROWSER-  
ADAPTING SERVER APPLICATIONS

**APPELLANTS' REPLY BRIEF UNDER 37 C.F.R. § 41.41**

MS Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

**TABLE OF CONTENTS**

- I. Statement of Timeliness
- II. Argument
  - 1. Grounds of Rejection No. 1
  - 2. Grounds of Rejection No. 2
- III. Conclusion

**I. STATEMENT OF TIMELINESS**

Appellant submits this reply brief in accordance with 37 C.F.R. § 41.41 in response to the Examiner's Answer mailed December 11, 2008.

## II. ARGUMENT

### 1. Grounds of Rejection No. 1: Anticipation Rejection of Claims 16-19 based on Rosenberg et al.

Independent claim 16 was rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 6,073,241 to Rosenberg et al. ("Rosenberg"). The Examiner's Answer disagrees with Appellant that Rosenberg fails to teach a single server, having a first server application and a browser-adapting server application, as required by claim 16. Examiner's Answer, page 11, item 10.

In support, the Examiner's Answer indicates that Rosenberg teaches "server computer 24A (first server) [which] is used to set a cookie and return a page to a client computer (based on the transmitted first key information)" and the "first server 24a (first server) conveys the cookie to a set of related servers, represented in this example as server B (second server)." Examiner's Answer, page 11, item 10 (*citing* Rosenberg column 7, lines 60-66, column 8, lines 1-10) (emphasis in original). Thus, the Examiner's Answer relies on Rosenberg's disclosure of more than a single server — server 24A and a set of related servers, such as a second server B.

It is respectfully submitted that Rosenberg does not teach a single server, having a first server application and a browser-adapting server application, as required by claim 16. In contrast, Rosenberg describes the use of a plurality of servers, a first server 24A and a second server or set of servers B 24B. *See* Rosenberg, column 7, line 62 to column 8, line 6. Nor does Rosenberg teach first and second browsers, as recited in claim 16. In contrast, Rosenberg describes merely one browser, not two. *See* Rosenberg, column 5, lines 1 to 5. Rosenberg describes a method of setting a cookie wherein the second server determines if a cookie has already been set, and if so, the second server overwrites the first cookie. *See* Rosenberg, column 6, lines 25 to 47. Nowhere does Rosenberg disclose a first browser transmitting a first key information to a first server application of the server, the browser-adapting server application of the server obtaining a second key information

regarding a second browser, or the browser-adapting server application of the server comparing the second key information with the stored first key information, as recited in claim 16.

The present claimed invention, thus, relates to a method of testing a browser-adapting application of a server, so as to improve adaptation of information-providing server applications of the server to the capabilities of different browser types and versions of the many different browser application types and versions that may be used with the server application. Rosenberg, in contrast, relates to tracking individual users across different domains in order to identify their content preferences and interests.

Claims 17-19 from claim 16. Dependent claims 17-19 are patentable over Rosenberg for at least the same reasons as their base claim. Therefore, for the reasons stated above, Appellant respectfully submits that Rosenberg does not disclose each and every feature of claims 16-19, and therefore cannot anticipate these claims.

2. Grounds of Rejection No. 2: Obviousness rejection of claims 5-15 and 20-24 based on a combination of Rosenberg and Himmel

Independent claims 5 and 22 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Rosenberg in view of U.S. Patent No. 6,167,441 to Himmel. In response to Appellant's argument of the Appeal Brief that Rosenberg and Himmel, individually and in combination, fail to disclose or suggest each and every feature recited in independent claims 5 and 22, the Examiner's Answer characterizes Appellant's argument a "there is no suggestion to combine the references." The Examiner's Answer then discusses motivations to combine Rosenberg and Himmel. The Examiner's Answer concludes with a statement that "the invention can be used to **detect the language version of the browser** since this information is typically in the header information." Examiner's Answer, page 12, item 10 (emphasis in original).

It is respectfully submitted that the Examiner's Answer has failed to address Appellant's argument that the combination of Rosenberg and Himmel fails to teach or suggest the claimed invention. Independent claims 5 and 22 are directed to "a method for testing a browser-adapting server application of a server" and each recite the step of "testing an information adaptation method of the browser-adapting server application of the server using the key information so as to ensure that the browser-adapting server application functions properly with each of the plurality of browsers." As noted in the March 31, 2008 Final Office Action, at page 4, Rosenberg does not disclose such a step. It is respectfully submitted that Himmel also does not disclose or suggest this feature. Specifically, Himmel does not "test[] an information adaptation method of the browser-adapting server application." In contrast, Himmel merely describes selecting a webpage customized for use with a particular known browser type, based upon browser information detected by the agent. *See* Himmel, column 7, lines 18 to 26 and lines 55 to 63. The selection in Himmel is performed using a database of known browser types. *See* Himmel, column 8, lines 48 to 50. Himmel does not disclose or suggest testing an information adaptation method of the browser-adapting server application of the server, or any other step "so as to ensure that the browser-adapting server application functions properly with each of the plurality of browsers," as recited in claims 5 and 22. As such, it is respectfully submitted that Rosenberg and Himmel, individually and in combination, fail to disclose or suggest each and every feature recited in independent claims 5 and 22. Therefore, a combination of Rosenberg and Himmel, to the extent proper, could not render claims 5 and 22, along with dependent claims 6-15, 20, 21, 23, and 24, obvious.

### III. CONCLUSION

For all of the reasons set forth above, the rejections of claims 5-24 should be reversed. Appellant respectfully requests that the application be remanded to the Primary Examiner with an instruction to withdraw the rejections, and pass the case to allowance.

Application No.: 10/524,655  
Reply Appeal Brief dated February 11, 2009

Docket No.: 20811/0204738-US0

The Commissioner is hereby authorized to charge any unpaid fees deemed required in connection with this submission, or to credit any overpayment, to Deposit Account No. 04-0100.

Favorable consideration of this Reply Brief is respectfully requested.

Dated: February 11, 2009

Respectfully submitted,

By 

Erik R. Swanson

Registration No.: 40,833

DARBY & DARBY P.C.

P.O. Box 770

Church Street Station

New York, New York 10008-0770

(212) 527-7700

(212) 527-7701 (Fax)

Attorney For Applicant(s)